

§ 400.655

may not substitute a crop that the producer planted in the preceding crop year unless that crop was listed on a timely filed application for the current crop year.

(4) If the producer plants a substitute crop that is a crop of economic significance, the producer must obtain CAT coverage, if available, to comply with the linkage requirements specified in § 400.655. The producer may not substitute a crop under this provision if the producer has signed or intends to sign a waiver for emergency crop loss assistance for the crop year.

(5) The substitute crop must be planted on or before the final planting date or within the late planting period, if applicable, for the substitute crop.

(6) Under no circumstances may a producer submit an application for additional coverage after the sales closing date for the substitute crop.

(d) For all coverages, including catastrophic risk protection, and additional coverages, the producer must file a signed acreage report on or before the acreage reporting date. Any person may sign any document relative to crop insurance coverage on behalf of any other person covered by such a policy, provided that the person has a properly executed power of attorney or other legally sufficient document authorizing such person to sign.

(e) Under catastrophic risk protection, unless the other person with an insurable interest in the crop objects in writing prior to the acreage reporting date and provides a signed acreage report on their own behalf an operator may sign the acreage report for all other persons with an insurable interest in the crop without a power of attorney. All persons with an insurable interest in the crop, and for whom the operator purports to sign and represent, are bound by the information contained in that acreage report.

[61 FR 42975, Aug. 20, 1996, as amended at 64 FR 40742, July 28, 1999; 68 FR 37721, June 25, 2003]

§ 400.655 Eligibility for other program benefits.

The producer must obtain at least catastrophic coverage for each crop of economic significance in the county in which the producer has an insurable

7 CFR Ch. IV (1–1–05 Edition)

share, if insurance is available in the county for the crop, unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop, to be eligible for:

(a) Benefits under the Agricultural Market Transition Act;

(b) Loans or any other USDA provided farm credit, including: guaranteed and direct farm ownership loans, operating loans, and emergency loans under the Consolidated Farm and Rural Development Act provided after October 13, 1994; and

(c) Benefits under the Conservation Reserve Program derived from any new or amended application or contract executed after October 13, 1994.

[61 FR 42975, Aug. 20, 1996. Redesignated at 63 FR 40634, July 30, 1998]

§§ 400.656–400.657 [Reserved]

Subpart U—Ineligibility for Programs Under the Federal Crop Insurance Act

AUTHORITY: 7 U.S.C. 1506(l), 1506(p).

SOURCE: 62 FR 42042, Aug. 5, 1997, unless otherwise noted.

§ 400.675 Purpose.

This rule prescribes conditions under which a person may be determined to be ineligible to participate in any program administered by FCIC under the Federal Crop Insurance Act, as amended. This rule also establishes the criteria for reinstatement of eligibility.

§ 400.676 [Reserved]

§ 400.677 Definitions.

Act. The Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

Actively engaged in farming. Means a person who, in return for a share of profits and losses, makes a contribution to the production of an insurable crop in the form of capital, equipment, land, personal labor, or personal management.

Applicant. A person who has submitted an application for crop insurance coverage under the Act.

Authorized person. Any current or past officer, employee, elected official,

general agent, agent, contractor, or loss adjuster of FCIC, the insurance provider, or any other government agency whose duties require access to the Ineligible Tracking System to administer the Act.

CAT. The catastrophic risk protection plan of insurance.

Controlled substance. Any prohibited drug-producing plants including, but not limited to, cacti of the genus (*lophophora*), coca bushes (*erythroxylum coca*), marijuana (*cannabis sativa*), opium poppies (*papaver somniferum*), and other drug-producing plants, the planting and harvesting of which is prohibited by Federal or state law.

Debt. An amount of money which has been determined by an appropriate agency official to be owed, by any person, to FCIC or an insurance provider under any program administered under the Act based on evidence submitted by the insurance provider. The debt may have arisen from an overpayment, premium or administrative fee non-payment, interest, penalties, or other causes.

Debtor. A person who owes a debt and that debt is delinquent.

Delinquent debt. Any debt owed to FCIC or the insurance provider, that arises under any program administered under the authority of the Act, that has not been paid by the termination date specified in the applicable contract of insurance, or other due date for payment contained in any other agreement or notification of indebtedness, or any overdue debt owed to FCIC or the insurance provider which is the subject of a scheduled installment payment agreement which the debtor has failed to satisfy under the terms of such agreement. Such debt may include any accrued interest, penalty, and administrative charges for which demand for repayment has been made, or unpaid premium including any accrued interest, penalty and administrative charges (7 CFR 400.116). A delinquent debt does not include debts discharged in bankruptcy and other debts which are legally barred from collection.

EIN. An Employer Identification Number as required under section 6109 of the Internal Revenue Code of 1986.

FCIC. The Federal Crop Insurance Corporation, a wholly owned government corporation within the United States Department of Agriculture.

FSA. The Farm Service Agency or a successor agency.

Ineligible person. A person who is denied participation in any program administered by FCIC under the Act.

Insurance provider. A reinsured company or FSA providing crop insurance coverage to producers participating in any Federal crop insurance program administered under the Act.

Minor. Any person under 18 years of age. Court proceedings conferring majority on an individual under 18 years of age will result in such persons no longer being considered as a minor.

Person. An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State, political subdivision, or an agency of a State.

Policyholder. An applicant whose properly completed application for insurance under the crop insurance program has been accepted by FCIC or an insurance provider.

Reinsurance agreement. An agreement between two parties by which an insurer cedes to a reinsurer certain liabilities arising from the insurer's sale of insurance policies.

Reinsured company. A private insurance company having a Standard Reinsurance Agreement, or other reinsurance agreement, with FCIC, whose crop insurance policies are approved and reinsured by FCIC.

Scheduled installment payment agreement. An agreement between a person and FCIC or the insurance provider to satisfy financial obligations of the person under conditions which modify the terms of the original debt.

Settlement. An agreement between a person and FCIC or the insurance provider to resolve a dispute arising from a debt or other administrative determination.

SSN. An individual's Social Security Number as required under section 6109 of the Internal Revenue Code of 1986.

Standard Reinsurance Agreement (SRA). The primary reinsurance agreement between the reinsured company and FCIC.

§ 400.678

Substantial beneficial interest. An interest held by any person of at least 10 percent or more in the applicant or policyholder.

System of records. Records established and maintained by FCIC and FSA containing SSN or EIN data, name, address, city and State, applicable policy numbers, and other information related to Federal crop programs as required by FCIC, from which information is retrieved by a personal identifier including the SSN, EIN, name, or other unique identifier of a person.

[62 FR 42042, Aug. 5, 1997, as amended at 63 FR 40631, July 30, 1998]

§ 400.678 Applicability.

This subpart applies to any program administered by FCIC under the Act, including:

- (a) The catastrophic risk protection plan of insurance;
- (b) The limited and additional coverage plans of insurance as authorized under sections 508(c) and 508(m) of the Act; and
- (c) Private insurance products authorized under section 508(h) of the Act and reinsured by FCIC.

§ 400.679 Criteria for ineligibility.

Any person may be determined to be ineligible to participate in any program administered by FCIC under the authority of the Act, if the person meets one or more of the following criteria:

- (a) Has a delinquent debt on a crop insurance policy, issued or reinsured by FCIC, or any delinquent debt due FCIC under the Act. Any person with a delinquent debt owed to FCIC or to the insurance provider shall be ineligible to participate in any program administered under the authority of the Act. Such determinations will be in accordance with 7 CFR 400.459. The existence and delinquency of the debt must be verifiable.
- (b) Has violated the controlled substance (7 CFR part 718) provisions of the Food Security Act of 1985, as amended. Any person who violates the controlled substance provisions of the Food Security Act of 1985, as amended, shall be ineligible to participate in any program administered under the Act.

7 CFR Ch. IV (1–1–05 Edition)

(c) Has been disqualified under section 506(n) of the Act and 7 CFR part 400, subpart R. Any person who is disqualified in any administrative proceeding shall be ineligible to participate in any program administered under the Act. Ineligibility determinations resulting from administrative proceedings will not be stayed pending review. However, reversal of the determination will date back to the time of determination.

§ 400.680 Determination and notification of ineligibility.

(a) The insurance provider must send a written notice of the debt to the person, including the time frame in which the debt must be paid, and provide the person with a meaningful opportunity to contest the amount or existence of the debt. After the insurance provider has evaluated the person's response, if any, and determined that the debt is owed and delinquent, the insurance provider should submit the documentation establishing the existence and amount of the debt to FCIC, including any response by the person.

(b) If an insurance provider or any other authorized person has evidence that a person meets any other criteria set forth in § 400.679, they must submit the evidence to FCIC.

(c) After FCIC verifies that the person has met one or more of the criteria stated in § 400.679, FCIC will issue a Notice of Ineligibility and mail such notice to the person's last known address and to the insurance provider.

(d) The Notice of Ineligibility will state the criteria upon which the determination of ineligibility has been based, a brief statement of the facts to support the determination, the time period of ineligibility, and the persons right to an appeal of the ineligibility determination.

(e) Within 30 days of receiving the Notice of Ineligibility, any person receiving such a notice may appeal the determination of ineligibility to the National Appeals Division in accordance with 7 CFR part 11.

(f) If the person appeals the determination of ineligibility to the National Appeals Division, the insurance provider will be notified and provided with an opportunity to participate in